

## **NOTICE & INVITATION FOR BIDS TOWN OF GILBERT**

Services: Ultra-Thin Bonded Wearing Course  
Solicitation Number: 2015-4106-0597  
Bid Opening: March 3, 2015 at 2:00 PM (local time)  
Location: Town Clerk's Office, 50 East Civic Center Drive, Gilbert, AZ 85296  
Staff Contact / telephone number: Jason Harris / 480-503-6903  
Contract Documents available at: Bid documents may be downloaded from [www.gilbertaz.gov/rfp](http://www.gilbertaz.gov/rfp)

Sealed proposals will be received by the Town of Gilbert Clerk's Office, Municipal Center, 50 East Civic Center Drive, Gilbert, Arizona 85296 until the time and date cited above.

Proposals must be submitted in a sealed envelope clearly marked on the outside with the name of the services and the solicitation number. Any proposal received after the time specified will be returned unopened. It is the Offeror's responsibility to assure proposals are received at the above location on or before the specified time.

Bids will be publicly read aloud immediately after the time for receiving bids. Only the Offerors' names will be read aloud, and the determination of the lowest, responsive, and responsible bid will be made after further Gilbert review.

**Services Sought:** Street Renovation - Ultra-Thin Bonded Wearing Course for arterial, collector and local streets in the Town of Gilbert per Town of Gilbert Pavement Management Program.

**Bid Requirement:** Each bid will be in accordance with the bid requirements, set forth in the Invitation for Bids. Any bid which does not conform in all material respects to the Invitation for Bids may be considered non-responsive.

**Right to Reject Bids:** Gilbert reserves the right to reject any or all bids, waive any informality in a bid or to withhold the Award for any reason Gilbert determines.

**Equal Opportunity:** Gilbert is an equal opportunity employer. Minority and women's business enterprises are encouraged to submit bids on this solicitation.

Issue Date: 2/6/2015

TOWN OF GILBERT, ARIZONA

Publications Date(s)  
2/6, 2/7, 2/8, 2/9

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Catherine A. Templeton, Town Clerk

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**IMPORTANT  
OFFEROR'S CHECK LIST**

- [ ] 1. Attachments 1, 2, and 3 are signed and included in the Bid. Bids not signed in this section will not be considered.
- [ ] 2. Attachments 1, 2, 3, 4, Exhibit A (Pricing), and Offeror's Checklist have been completed and enclosed. Attachment 5 (Contract) is for reference only and is not to be submitted.
- [ ] 3. Any addenda have been included/noted in Offeror's Section, Attachment 1.
- [ ] 4. The delivery/shipment information has been included in Exhibit A.
- [ ] 5. Any required descriptive literature or other information have been included.
- [ ] 6. The proposal prices offered have been reviewed and submitted in both hard copy and electronic format (USB drive or compact disc).
- [ ] 7. Bid security (10%)    ☒ Yes \$ \_\_\_\_\_    ☐ No  
Bid security, if applicable, in the percentage specified must be submitted with the bid.
- [ ] 8. Bid Package/Envelope has been identified with solicitation number and title.  
The mailing envelope/package has been addressed to:

Town Clerk's Office  
50 East Civic Center Drive  
Gilbert, Arizona 85296

- [ ] 9. The proposal is submitted and stamped in by Clerk's Office representative no later than specified time on designated date. Otherwise, the proposal cannot be considered.
- [ ] 10. Exceptions taken to the provisions or specifications in this solicitation, confidential and additional materials shall be indicated below and submitted with the Bid.

**Exceptions (mark one)**

- \_\_\_ No Exceptions  
\_\_\_ Exceptions taken, see attached page(s)

**Confidential/Proprietary Material (mark one)**

- \_\_\_ No confidential/proprietary materials have been included  
\_\_\_ Confidential/Proprietary material included, see attached page(s)

**Additional Material (mark one)**

- \_\_\_ No additional materials have been included  
\_\_\_ Additional materials included, see attached page(s)

BID DOCUMENTS FOR:  
**Solicitation No. 2015-4106-0597, Ultra-Thin Bonded Wearing Course**  
FOR THE TOWN OF GILBERT, ARIZONA

Gilbert intends to purchase services in compliance with these specifications.

INSTRUCTIONS TO OFFERORS

1.0 Bid Opening Date and Location: **2:00 PM (local time), March 3, 2015**

Bids will be received in the office of the Town Clerk, Municipal Center, 50 East Civic Center Drive, Gilbert, Arizona 85296, until date/time shown above, at which time the names of the offerors will be publicly read. Bid prices will not be read. Late bids will not be considered.

1.1 Questions Due: **3:00 PM (local time), February 17, 2015**

Inquiries should be emailed to: Jason Harris, [jason.harris@gilbertaz.gov](mailto:jason.harris@gilbertaz.gov)

1.2 Bid Documents Available: Documents may be downloaded from [www.gilbertaz.gov/rfp](http://www.gilbertaz.gov/rfp).

The Bid Documents consist of four parts: I. Instructions to Offerors, II. Standard Terms and Conditions, III. Scope of Work, and IV. Offeror's Bid (form).

1.3 Incorporation of Bid Documents: All of the Bid Documents apply to and become a part of the terms and conditions of the Bidder's bid.

1.4 Bidder's Bid Form: Bids must be submitted only on the Bidder's bid form. All bids must be submitted in a sealed envelope clearly marked "**Solicitation #2015-4106-0597: Ultra-Thin Bonded Wearing Course**"

1.5 Pre-Proposal Conference: None.

1.6 Gilbert's Right to Reject Bids: The Town of Gilbert reserves the right to reject any and all bids and to waive technicalities in the bidding.

1.7 Late Bids: Late submittals and/or unsigned Bids will not be considered under any circumstances. Envelopes containing Bids with insufficient postage will not be accepted by the Gilbert. It is the sole responsibility of the Bidder to see that his/her Bid is delivered and received by the proper time and at the proper place.

1.8 Bid Amendment or Withdrawal: A Bid may be withdrawn anytime before the Bid due date and time. A Bid may not be amended or withdrawn after the Bid due date and time except as otherwise provided by applicable law.

1.9 Public Record: All Bids submitted in response to this solicitation and all evaluation related records shall become property of Gilbert and shall become a matter of public record for review, subsequent to bid opening. Request for nondisclosure of data such as trade secrets and other proprietary data, must be made known in writing to Gilbert in Bids submitted, and the

information sought to be protected clearly marked as proprietary. Gilbert will not insure confidentiality of any portion of the bid that are submitted in the event that a public record request is made. Gilbert will provide 48 hours notice before releasing materials identified by the bid as confidential or proprietary in order for the bid to apply for a court order blocking the release of the information.

1.10 Persons with Disabilities: Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Clerk's Office. Requests shall be made as early as possible to allow time to arrange the accommodation.

1.11 Bid Acceptance Period: All bids shall remain open for ninety (90) days after the day of the opening of bids, but Gilbert may, at its sole discretion, release any bid and return the bid security (as applicable) prior to that date. No Bidder may withdraw his Bid during this period without written permission from Gilbert. Should any bidder refuse to enter into a contract, under the terms and conditions of the procurement, Gilbert may retain the security (as applicable), not as a penalty, but as liquidated damages.

1.12 Addendum: This Invitation for Bids may only be modified by a written Addendum. Potential Bidders are responsible for obtaining all addenda. See Section 1.13.

1.13 Offeror Registration: Offerors shall register via the on-line Vendor Registration system ProcureAZ at [www.https://procure.az.gov](https://procure.az.gov), in order to automatically receive notification of addenda to this Solicitation or notice of other solicitation opportunities. A Offeror who is not registered with ProcureAZ must email the Gilbert representative shown above to make other arrangements to receive notice of addenda to this solicitation. All addenda will be posted on the Gilbert website at [www.gilbertaz.gov/rfp](http://www.gilbertaz.gov/rfp).

1.14 Bid Security: Each bid will be submitted on the Bid Form(s) included in the Contract Documents and will be accompanied by a certified check, cashier's check, or bid bond for **ten (10%)** percent of the amount of the bid, made payable to the Town of Gilbert.

1.15 General Evaluation Standards:

1.15.1 In General. Gilbert seeks to obtain the services described in the **Exhibit A** and will award a contract to the lowest most responsive and responsible bidder. Gilbert wishes to obtain the most reliable and productive services. Gilbert will be the sole judge of whether the services offered are acceptable. Bids from individuals who have provided inadequate services to municipalities in the past, or bids offering services proven unsatisfactory in Gilbert's sole judgment may be rejected and not considered.

1.15.2 Deviations from Specifications. Any deviations from General Conditions and Specifications and Design Standards may render the bid non-responsive.

1.15.3 Disqualification. A Bidder (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity may have its Bid rejected.

1.15.4 Clarifications. Gilbert reserves the right to obtain Bidder clarifications where necessary to arrive at full and complete understanding of Bidder's product, service, and/or solicitation response. Clarification means a communication with a Bidder for the sole purpose of eliminating ambiguities in the Bid and does not give Bidder an opportunity to revise or modify its bid.

1.15.5 Waiver and Rejection Rights. Gilbert reserves the right to reject any or all Bids or to cancel the solicitation altogether, to waive any informality or irregularity in any Bid received, and to be the sole judge of the merits of the respective Bids received.

1.16 Bid Preparation:

1.16.1 Format. Bidders shall submit their Bid with an original, one (1) copy, and a PDF document on one (1) disc or USB drive, and shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document must be legible and contain the same information requested on the forms.

1.16.2 No Facsimile or Electronic Mail Bids. Bids may not be submitted in facsimile or electronically. A facsimile or electronic mail Bid shall be rejected.

1.16.3 Typed or Ink Corrections. The Bid shall be typed or in ink. Erasures, interlineations or other modifications in the Bid shall be initialed in ink by the person signing the Bid.

1.16.4 No Modifications. Modifications shall not be permitted after Bids have been opened except as otherwise provided under applicable law.

1.16.5 Content. The Bid shall contain all of the following information:

Brief Description of the Bidder's Firm

- A. Office location
- B. Length of time in business
- C. Total number of employees and number of local employees
- D. Names of principals, their disciplines, and Arizona registration.
- E. Services provided by the firm
- F. Experience in providing similar services within the last 10 years
- G. Three (3) references, see Attachment 4

Subcontractors:

Please list any firms that will act as subcontractors to your firm. Provide information regarding prior projects on which subcontractors have worked with your firm, see **Exhibit B**.

Other information required to be supplied with Bid:

1.16.6 Solicitation Addendum Acknowledgement. Each Solicitation Addendum shall be acknowledged in the Bid Section, which shall be submitted together with the Bid on the Bid due date and time. Failure to note a Solicitation Addendum may result in rejection of the Bid.

1.16.7 Evidence of Intent to be Bound. The Bid form within the Solicitation shall be submitted with the Bid and shall include a signature by a person authorized to sign the Bid. The signature shall signify the Bidder's intent to be bound by its Bid and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, shall result in rejection of the Bid.

1.16.8 Non-Collusion and Non-Discrimination. By signing and submitting the Bid, the Bidder certifies that: he Bidder did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Bid; and The Bidder does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, age, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

#### 1.17 Inquiries

1.17.1 Duty to Examine. It is the responsibility of each Bidder to examine the entire Solicitation, seek clarification (inquiries), and examine its Bid for accuracy before submitting the Bid. Lack of care in preparing a Bid shall not be grounds for modifying or withdrawing the Bid after the Bid due date and time, nor shall it give rise to any Contract claim.

1.17.2 Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation should be directed solely to the Contact person listed on the cover page of the solicitation. The Bidder shall not contact or direct inquiries concerning this Solicitation to any other Gilbert employee unless the Solicitation specifically identifies a person other than the Contact Person as a contact.

1.17.3 Submission of Inquiries. All inquiries except those at the Pre-Bid Conference shall be submitted in writing and shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Bid and not be opened until after the Bid due date and time. Gilbert shall consider the relevancy of the inquiry but is not required to respond in writing.

1.17.4 Timeliness. Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least ten (10) days before the Bid due date and time for review and determination by Gilbert. Failure to do so may result in the inquiry not being considered for a Solicitation Addendum.

1.17.5 No Right to Rely on Verbal Responses. A Bidder shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the Solicitation.

1.17.6 Protests. Pursuant to the Municipal Code Section 2-366

- A. An unsuccessful Offeror or bidder may protest a solicitation or a contract award by filing a protest in writing with the purchasing officer not less than 72 hours before the closing date and time of the solicitation, or within 72 hours after issuance of a notice of apparent low responsive and responsible bidder, or a notice of intent to award. The protest shall include the following information:
  - 1) The name, address and telephone number of the protester;
  - 2) The signature of the protester or its authorized representative;
  - 3) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents.
- B. The purchasing officer shall evaluate the protest. Protests in connection with a solicitation or an award of a contract shall be determined by the purchasing officer.

## **STANDARD TERMS AND CONDITIONS**

2.1 Contract Term; Renewal. If funds for this Contract are not appropriated or budgeted by July 1, Gilbert may terminate this contract by giving written notice to Contractor. Otherwise, the Contract commences upon execution of the Contract and continues through June 30, 2016. The Contract may be renewed for up to three (3) additional one-year terms upon mutual agreement of the parties. The Contract may be renewed upon written approval of Gilbert's Purchasing Officer if: (1) the renewal Contract amount does not exceed \$100,000; or (2) the original prices remain in effect during the renewal term. If at least 60 days prior to the end of the original term the Contractor requests a price adjustment, Contractor shall submit evidence of increased costs to the Contractor. Any price adjustment shall be in the sole discretion of Gilbert and shall not exceed the amount of increased cost to the Contractor. Price adjustment requests shall be a factor in the Contract extension review process. A price adjustment less than 3% of the original contract price may be approved by the Purchasing Officer. The Gilbert Council must approve renewal in all other cases. Any renewal shall be in writing and shall expressly state the prices for the services during the renewal term. Any renewal shall be contingent on funds being appropriated or budgeted for the renewal term.

2.2 Bonds:

2.2.1 Bonds Required. Concurrently with the execution of the Contract, the Contractor shall furnish Gilbert the following Bonds, which shall become binding upon the award of the Contract to the Contractor:

A Performance Bond in an amount equal to one hundred (100%) percent of the



Contract amount conditioned upon the faithful performance of the Contract in accordance with Plans, Specifications and conditions thereof. Such Bond shall be solely for the protection of Gilbert.

A Payment Bond in an amount equal to one hundred (100%) percent of the Contract amount solely for the protection of the claimants supplying labor or materials to the Contractor or his subcontractors in the prosecution of the Work provided for in such Contract.

2.2.2 Form. Bond forms to be executed are included with the Contract Documents. Each such Bond shall include a provision allowing the prevailing party in a suit on such Bond to recover as a part of this judgment such reasonable attorney's fees as may be fixed by a judge of the court. Each such bond shall be executed by a surety company or companies holding a certificate of authority to transact surety business in the State of Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1 of the Arizona Revised Statutes and any amendments thereto. The Bonds shall be made payable and acceptable to Gilbert. The Bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in this State and the Bonds shall have attached thereto a certified copy of the Power of Attorney of the signing official.

2.2.3 Contingent Award. Submittal of the required bonds as set forth in this paragraph is a condition precedent to this contract becoming effective.

2.3 Cooperative Use of Contract: Gilbert has entered into various cooperative purchasing agreements with other Arizona government agencies, including the Strategic Alliance for Volume Expenditures (SAVE) cooperative. Any contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the Contractor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency. Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. Gilbert shall not be responsible for any disputes arising out of transactions made by others.

### 3. SCOPE OF WORK

Offeror shall provide those services described in **Attachment 5**, "Agreement for Services" attached hereto and made a part hereof by reference.

### 4. INSURANCE REPRESENTATIONS AND REQUIREMENTS

4.1 General. Contractor agrees to comply with all Municipal Parties' ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to the Municipal

Parties. Failure to maintain insurance as specified may result in termination of this Agreement at the Municipal Parties' option.

4.2 No Representation of Coverage Adequacy. By requiring insurance herein, the Municipal Parties do not represent that coverage and limits will be adequate to protect Contractor. The Municipal Parties reserve the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but have no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

4.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Municipal Parties, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

4.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by the Municipal Parties, unless specified otherwise in this Agreement.

4.5 Primary Insurance. Contractor's insurance shall be primary insurance as respects performance of subject contract and in the protection of the Municipal Parties as an Additional Insured.

4.6 Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.

4.7 Waiver. All policies, including Workers' Compensation Insurance, shall contain a waiver of rights of recovery (subrogation) against the Municipal Parties, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

4.8 Policy Deductibles and or Self Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Municipal Parties. Contractor shall be solely responsible for any such deductible or self-insured retention amount. Municipal Parties, at their option, may require

Contractor to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

4.9 Use of Subcontractors. If any Services under this Agreement are subcontracted in any way, Contractor shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting the Municipal Parties and Contractor. Contractor shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.10 Evidence of Insurance. Prior to commencing any Services under this Agreement, Contractor shall furnish the Municipal Parties with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Contractor's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance and reliance by the Municipal Parties on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to the Municipal Parties' Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Contractor's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

4.10.1 Municipal Parties, their agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

- a. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent.
- b. Auto Liability-Under ISO Form CA 20 48 or equivalent.
- c. Excess Liability-Follow Form to underlying insurance.

4.10.2 Contractor's insurance shall be primary insurance as respects performance of this Agreement.

4.10.3 All policies, including Workers' Compensation, waive rights of recovery (subrogation) against the Municipal Parties, their agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by Contractor under this Agreement.

4.10.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

#### 4.11 Required Coverage:

4.11.1 Commercial General Liability: Contractor shall maintain “occurrence” from Commercial Liability Insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Municipal Parties, their agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you”. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

4.11.2 Professional Liability: When applicable, Contractor shall maintain Professional Liability insurance covering errors and omissions arising out of the Services performed by Contractor, or anyone employed by Contractor, or anyone for whose acts, mistakes, errors and omissions Contractor is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claims and \$2,000,000 all claims. Professional Liability coverage specifically shall contain contractual liability insurance covering the contractual obligations of this Agreement. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for three (3) years past completion and acceptance of the Services, and Contractor shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

4.11.3 Vehicle Liability: Contractor shall maintain Business Automobile Liability Insurance with a limit of \$1,000,000 each occurrence on Contractor’s owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor’s Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc., coverage code “1” any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, the Municipal Parties, their agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

4.11.4 Workers’ Compensation Insurance: Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor’s employees engaged in the performance Services under this Agreement and shall

also maintain Employer Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

## 5. INDEMNIFICATION

5.1 To the fullest extent permitted by law, the Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the Municipal Parties, their agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, Services caused by the Contractor, its agents, employees or any tier of Contractor's subcontractors related to the Services in the performance of this Agreement. Contractor's duty to defend, hold harmless and indemnify the Municipal Parties, their agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting therefrom, caused by Contractor's acts, errors, mistakes, omissions, Services in the performance of this Agreement including any employee of the Contractor, any tier of Contractor's subcontractor or any other person for whose acts, errors, mistakes, omissions, Services the Contractor may be legally liable including the Municipal Parties. Such indemnity does not extend to the Municipal Parties' negligence.

5.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

## 6. TERMINATION OF THIS AGREEMENT

6.1 Termination. Municipal Parties may, by written notice to the Contractor, terminate this Agreement in whole or in part with seven (7) days notice, either for the Municipal Parties' convenience or because of the failure of the Contractor to fulfill his contract obligations. Upon receipt of such notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Municipal Parties copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Agreement, whether completed or in process. This Agreement may be terminated in whole or in part by the Contractor in the event of substantial failure by the Municipal Parties to fulfill their obligations.

6.2 Force Majeure. Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, fire, explosion, legislation, and governmental regulation. The party whose performance is so affected shall within five (5) days notify the other party of all pertinent facts and identify the force majeure event. The party whose performance is so affected

shall also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so, or to minimize or eliminate the effect thereof. The delivery or performance date shall be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay, provided however, under no circumstances shall delays caused by a force majeure extend beyond one hundred-twenty (120) days from the scheduled delivery or completion date of a task.

6.3 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. The parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

6.4 Surviving Provisions. Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, shall survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, Termination, or other expiration of this Agreement shall not release any party from any liability or obligation arising prior to the date of termination.

6.5 Payment to Contractor upon Termination. If the Agreement is terminated, the Municipal Parties shall pay the Contractor for the services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

## 7. ASSURANCES

7.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for Services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color or national origin.

7.2 Examination of Records. The Contractor agrees that duly authorized representatives of the Municipal Parties shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Agreement.

7.3 Ownership of Document and Other Data. Original documents and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of the Municipal Parties unless otherwise agreed to by both parties. The Municipal Parties may use such documents for other purposes without further compensation to the Contractor; however, any reuse without written verification or adaptation by Contractor for the specific purpose intended will be at the Municipal Parties' sole risk and without liability or legal exposure to Contractor. Any verification or adaptation of the documents by Contractor for other purposes

than contemplated herein will entitle Contractor to further compensation as agreed upon between the parties.

7.4 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, that all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

7.5 Independent Contractor. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the Municipal Parties' employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law. The Contractor agrees that it is a separate and independent enterprise from the Municipal Parties, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the Municipal Parties, and the Municipal Parties will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums. [FOR SOLE PROPRIETORS ONLY: The Contractor shall execute the Sole Proprietor's Waiver of Workers' Compensation Benefits attached hereto and incorporated by reference.]

7.6 Immigration Law Compliance Warranty. As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. If Contractor uses any subcontractors in performance of the Contract, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. The Municipal Parties at their option may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). The Municipal Parties retain the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

7.7 Equal Treatment of Workers. Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the work. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration (“OSHA”) and the Fair Labor Standards Act (“FLSA”). Contractor shall protect and indemnify the Municipal Parties and their representatives against any claim or liability arising from or based on the violation of such, whether by Contractor or its employees.

7.8 Exclusive Use of Services - Confidentiality. The services agreed to be provided by Contractor within this Agreement are for the exclusive use of the Municipal Parties and Contractor shall not engage in conflict of interest nor appropriate the Municipal Parties’ work product or information for the benefit of any third parties without the Municipal Parties’ consent.

7.9 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

7.10 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

GILBERT:  
Town Manager  
Town of Gilbert  
50 East Civic Center Drive  
Gilbert, Arizona 85296

CONTRACTOR:

The address may be changed from time to time by either party by serving notices as provided above.

7.11 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

## 8. SUSPENSION OF WORK

8.1 Order to Suspend. Municipal Parties may order the Contractor, in writing, to suspend all or any part of the Services for such period of time as he may determine to be appropriate for the convenience of the Municipal Parties.

8.2 Adjustment to Contract Fee. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of the Municipal Parties in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable



suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance was suspended or delayed for any other cause, including the fault or negligence of the Contractor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Agreement.

## 9. INTERESTS AND BENEFITS

9.1 Interest of Contractor. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

9.2 Interest of City/Town Members and Others. No officer, member or employee of the Municipal Parties and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

9.3 Notice Regarding A.R.S. § 38-511. This Contract is subject to cancellation under Section 38-511, Arizona Revised Statutes.

## 10. ASSIGNABILITY

The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of the Municipal Parties thereto.

## 11. SPECIFICATIONS AND DESIGN STANDARDS

11.1 Description: Each Bidder shall submit sufficient descriptions, technical detail specifications and information, so that the Municipal Parties may fairly and completely evaluate the product offered. Failure to comply may render a bid non-responsive. Any omission from these written Specifications and Design Standards shall not relieve the Successful Offeror from the responsibility of furnishing an operational unit complete and ready to operate at its intended use.

11.2 Indicate Compliance: The following Specifications and Design Standards are the minimum acceptable unless otherwise noted. The Offeror shall indicate compliance, list any deviations, and/or list any modifications needed to meet the Specifications and Design Standards, and/or list all data requested in the space provided.

EACH BIDDER IS REQUIRED TO FILL IN EVERY BLANK AS DESCRIBED IN EXHIBIT A, SUPPLIES & PRICING LIST, INCLUDING "NO BID", WHEN APPROPRIATE. FAILURE TO DO SO CAN BE THE BASIS FOR REJECTION OF THE BID.

**ATTACHMENT 1  
BIDDER'S BID**

1. Bidder's Bid: For the bid opening \_\_\_\_\_, 2015 for **Ultra-Thin Bonded Wearing Course, Solicitation No. 2015-4106-0597**
2. Covenant Clause: It is expressly agreed by Bidder that these covenants are irrevocable and perpetual.
3. Conditions Accepted: The undersigned Bidder declares that before preparing this bid, he or she has read the Bid Documents carefully, and that this bid is made with full knowledge of the kind, quality and quantity of services to be furnished by signing this bid. Bidder agrees to all conditions contained in the Bid Documents.
4. Bid Price: See Exhibit A, Price Sheet.
5. Contract Acceptance: Bidder proposes and agrees that if this bid is accepted, he or she will enter into a contract with Gilbert within ten (10) days after Gilbert's acceptance of this bid at the listed scheduled price.
6. Affidavit: The following affidavit is submitted by the Bidder as part of this bid:

The State of Arizona     )  
                                                      ) ss.  
Maricopa County         )

The undersigned deponent, of lawful age, being duly sworn upon his oath, deposes and says:

That he/she has lawful authority to execute the within and foregoing bid; that he/she has executed the same by subscribing his/her name hereto under oath for and on behalf of said Bidder; that Bidder has not directly or indirectly entered into any agreement, express or implied, with any Bidder or Bidders, having for its object the controlling of the price or amount of such bid or bids, the limiting of the bids or the Bidders, the parceling out to any Bidder or any other person of any part of the contract or any part of the subject matter of the bid or bids or of the profits thereof, and that he/she has not and will not divulge the sealed bid to any other person whatsoever, except those having a partnership or financial interest with him and said Bidder, until after the sealed bid or bids are open.

That Bidder has received and reviewed all Addenda Nos. \_\_\_\_\_ issued for this Bid (Bidder's failure to list all Addenda numbers issued shall be grounds for rejection of the Bid).

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**BID BOND**  
(Surety Bond)

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, (hereinafter  
“Principal”), and the \_\_\_\_\_, a corporation duly organized  
under the laws of the State of \_\_\_\_\_, duly licensed in and holding a certificate of authority to  
transact surety business in the State of Arizona issued by the Director of the Department of Insurance  
pursuant to Title 20, Chapter 2, Article 1, (hereinafter “Surety”), as Surety, are held and firmly bound unto  
Gilbert, a municipal corporation as Obligee, in the sum of ten percent (10%) of the amount of the bid  
included in the proposal, submitted by the Principal to the Mayor and Council of Gilbert, for the Work  
described below, for the payment of which sum, well and truly to be made, the said Principal and the said  
Surety, bind ourselves, our heirs, executors, and administrators, successors and assigns, jointly and severally,  
firmly by these presents, and in conformance with A.R.S. § 34-201.

WHEREAS, the Principal is herewith submitting its Bid for \_\_\_\_\_  
\_\_\_\_\_.

NOW, THEREFORE, if Gilbert shall accept the Bid of the Principal and the Principal shall  
enter into a Contract with Gilbert, in accordance with the terms of such proposal and give the Bonds and  
Certificates of Insurance as specified in the Specifications with good and sufficient surety for the faithful  
performance of the Contract and for the prompt payment of labor and material furnished in the prosecution of  
the Contract, or in the event of the failure of the Principal to enter into the Contract and give the Bonds and  
Certificates of Insurance, if the Principal pays to Gilbert the difference not to exceed the penalty of the bond  
between the amount specified in the Bid and such larger amount for which Gilbert may in good faith  
Contract with another party to perform the Work covered by the Bid, then this obligation is void. Otherwise  
it remains in full force and effect provided, however, that this Bond is executed pursuant to the provisions of  
Section 34-201, Arizona Revised Statutes, and all liabilities on this Bond shall be determined in accordance  
with the provisions of the Section to the extent as if it were copied at length herein.

This Surety Bond shall not be executed by an individual surety or sureties, even if the  
requirements of A.R.S. Section 7-101 are satisfied.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Witness:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title

Witness:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Title

Address of Surety:  
\_\_\_\_\_  
\_\_\_\_\_

\* Attach Power of Attorney

**ATTACHMENT 2**  
**AUTHORIZED SIGNATURE FORM**

Gilbert Contract Number: **Ultra-Thin Bonded Wearing Course, Solicitation No. 2015-4106-0597**

Contractor Name: \_\_\_\_\_

WHEREAS, the Town of Gilbert requires that Contractor execute documents necessary for the prompt and efficient execution of the business related to the CONTRACT;

NOW, THEREFORE, on behalf of the Contractor, I hereby declare that

(Name of Parties Authorized)

is/are authorized to execute and sign on behalf of said Contractor the following documents:

1. The CONTRACT
2. The Bond
3. Payrolls
4. Claims
5. CHANGE ORDERS
6. All other papers necessary for the conduct of the corporation's affairs and the execution of the CONTRACT

The above-named person is granted the authority and duties herein referenced for the duration of the CONTRACT for this PROJECT or until express notice of revocation has been duly given in writing, whichever is the lesser period. In the event Contractor is governed by a Board of Directors, a copy of the Resolution of the Board granting authority to said person(s) is attached hereto, and I hereby verify that such Resolution remains in full force and effect.

Name

Title

(Seal of Corporation)

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_ of the \_\_\_\_\_ corporation, do hereby certify that the above is a true and correct copy of a resolution adopted by the Board of Directors of said corporation, at a meeting of said Board held on \_\_\_\_\_, 20\_\_\_\_\_, and that the same is in full force and effect at this time.

DATED \_\_\_\_\_, 2015.

(Officer of Corporation)

(Seal of Corporation)

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, appearing before the undersigned Notary Public, and stated that he executed such instrument on behalf of said corporation for the purpose and consideration therein expressed.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

### ATTACHMENT 3

#### AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION

I, \_\_\_\_\_, the undersigned, on behalf of \_\_\_\_\_ (this company), do hereby consent and authorize all those companies and government entities listed in my Proposal and any other government entity for whom this company has performed professional services, to disclose and release to the Town of Gilbert, or their representatives, information, records and opinions concerning this company's professional services performance. The purpose of this disclosure is to provide references to the Town of Gilbert.

\_\_\_\_\_ hereby waives any claim it may have against the Town of Gilbert or any company or entity providing information to the Town of Gilbert by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for six (6) months.

This consent or copy of this authorization shall be as valid and effective as the original.

Dated: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

**ATTACHMENT 4**  
**REFERENCES**  
**TOWN OF GILBERT, ARIZONA**

Provide names, addresses, and telephone numbers of entities for whom your organization has provided similar goods or services, preferably within the past five years. These references will be checked, so please make sure all information is accurate and current. Offerors may make multiple copies of this document if necessary.

A. Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Service Date(s)/Contract Value (\$): \_\_\_\_\_

Goods or Services provided: \_\_\_\_\_

\_\_\_\_\_

B. Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Service Date(s)/Contract Value (\$): \_\_\_\_\_

Goods or Services provided: \_\_\_\_\_

\_\_\_\_\_

C. Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Service Date(s)/Contract Value (\$): \_\_\_\_\_

Goods or Services provided: \_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT 5**  
**AGREEMENT FOR SERVICES**  
**Contract No. \_\_\_\_\_**

THIS Agreement is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Gilbert, Arizona, a municipal corporation, hereinafter referred to as the “Gilbert” and \_\_\_\_\_, hereinafter referred to as the “Contractor.”

FOR THE PURPOSE of providing \_\_\_\_\_ services for Gilbert, Gilbert and Contractor do hereby mutually agree to the following:

**1. SERVICES AND RESPONSIBILITIES**

1.1 Retention of the Contractor. In consideration of the mutual promises contained in this Agreement, Gilbert engages the Contractor to render services set forth herein, in accordance with all the terms and conditions contained in this Agreement.

1.2 Scope of Services. The Contractor shall do, perform and carry out in a satisfactory and proper manner, as determined by Gilbert, the services set forth in this Agreement, including all exhibits (“Services”). The specific scope of work is set forth in the Bid Documents and Contractor’s bid, which are attached hereto as **Exhibit A**.

1.3 Responsibility of the Contractor.

1.3.1 Contractor hereby agrees that the documents and reports prepared by Contractor will fulfill the purposes of the Contract, shall meet all applicable code requirements and shall comply with applicable laws and regulations. In addition, and not as a limitation on the foregoing, such documents and reports prepared by Contractor shall be prepared in accordance with professional Consulting standards, as applicable. Any review or approval of said documents and reports does not diminish these requirements.

1.3.2 Contractor shall tour the Services site and become familiar with existing conditions, including utilities, prior to commencing the Services and notify Gilbert of any constraints associated with the Services site.

1.3.3 Contractor shall procure and maintain during the course of this Agreement insurance coverage required by Paragraph 4 of this Agreement.

1.3.4 Contractor shall designate \_\_\_\_\_ as Contractor Representative and all communications shall be directed to him. Key Contractor Personnel are set forth in Exhibit B. “Key Personnel” includes the Contractor employee who will place his license number and signature on key documents and those employees who have significant responsibilities regarding the Services and Contract.] Prior to changing such designation Contractor shall first obtain the approval of Gilbert.



1.3.5 Contractor's subcontracts are set forth in **Exhibit B** attached hereto and made a part hereof. Any modification to the list of Subcontractors on **Exhibit B**, either by adding, deleting or changing subcontractors, shall require the written consent of Gilbert.

1.3.6 Contractor shall obtain its own legal, insurance and financial advice regarding Contractor's legal, insurance and financial obligations under this Agreement.

1.3.7 Contractor shall coordinate its activities with Gilbert's representative and submit its reports to Gilbert's representative.

1.3.8 Contractor shall provide, pay for and insure under the requisite laws and regulations all labor, materials, equipment, and transportation, and other facilities and services necessary for the proper execution and completion of the Services. Contractor shall provide and pay for and insure for all equipment necessary for the Services.

1.3.9 Contractor shall obtain and pay for all business registrations, licenses, permits, governmental inspections and governmental fees necessary and customarily required for the proper execution and completion of Services. Contractor shall pay all applicable taxes. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Services.

#### 1.4 Responsibility of Gilbert.

1.4.1 Gilbert shall cooperate with the Contractor by placing at his disposal all available information concerning the Services.

1.4.2 Gilbert designates Kory Parker as its Contract Representative. All communications to Gilbert shall be through its Contract Representative.

1.5 Contract Term; Renewal. If funds for this Contract are not appropriated or budgeted by July 1, Gilbert may terminate this contract by giving written notice to Contractor. Otherwise, the Contract commences upon execution of the Contract and continues through June 30, 2016. The Contract may be renewed for up to three (3) additional one-year terms upon mutual agreement of the parties. The Contract may be renewed upon written approval of Gilbert's Purchasing Officer if: (1) the renewal Contract amount does not exceed \$100,000; or (2) the original prices remain in effect during the renewal term. If at least 60 days prior to the end of the original term the Contractor requests a price adjustment, Contractor shall submit evidence of increased costs to the Contractor. Any price adjustment shall be in the sole discretion of Gilbert and shall not exceed the amount of increased cost to the Contractor. Price adjustment requests shall be a factor in the Contract extension review process. A price adjustment less than 3% of the original contract price may be approved by the Purchasing Officer. The Gilbert Council must approve renewal in all other cases. Any renewal shall be in writing and shall expressly state the prices for the services during the renewal term. Any renewal shall be contingent on funds being appropriated or budgeted for the renewal term.

1.6 Schedule of Services. The Schedule of Services is set forth in **Exhibit C**. If this Contract is renewed, a new Schedule of Services shall be mutually agreed upon.

## 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Compensation. All compensation for complete and satisfactory completion of services rendered by Contractor, including its subcontractor(s), shall be set forth in **Exhibit D**.

2.2 Method of Payment. Method of payment shall be set forth in **Exhibit D**. If payment is to be made monthly, Contractor shall prepare monthly invoices and progress reports which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices shall be for services completed and accepted by Gilbert.

2.3 Invoices. Gilbert reserves the right to deduct up to ten percent (10%) from the invoiced amount for any invoice submitted more than sixty (60) days after the Services are completed. Invoices for the month of June shall be submitted on or before August 1st. Invoices submitted after the close out of the fiscal year (August 1st) may not be paid by Gilbert.

2.3 The Contractor shall provide to Gilbert its completed W-9 Form prior to receipt of any Compensation.

2.4 Taxes. Contractor will be responsible for and shall pay all sales, consumer, use, and other taxes. When equipment, materials or services generally taxable to the Contractor are eligible for a tax exemption, credit or deduction due to the nature of the item, at Contractor's request, Gilbert will assist Contractor in applying for and obtaining the same.

## 3. CHANGES TO THE SCOPE OF SERVICES

3.1 Change Orders. Gilbert may, at any time, and by written change order, make changes in the services to be performed under this Agreement. A form of change order is attached hereto as **Exhibit E**. If such changes cause an increase or decrease in the Contractor's cost or time required for performance of any services under this Agreement, an equitable adjustment shall be made and the Agreement shall be modified in writing accordingly. Any claim of the Contractor for adjustment under this clause must be submitted in writing within thirty (30) days from the date of receipt by the Contractor of the notification of change. It is distinctly understood and agreed by the parties that no claim for extra services provided or materials furnished by Contractor will be allowed by Gilbert except as provided herein nor shall Contractor provide any services or furnish any materials not covered by this Agreement unless Gilbert first approves in writing.

### 3.2 Emergency Response.

3.2.1 Response. Gilbert is an emergency response organization. Contractor services or supplies may be required in case of an emergency involving a sudden, immediate threat of danger to the public health, welfare or property in Gilbert ("local emergency") or in the case where the Mayor of Gilbert, the mayor or governing body of another municipality in Maricopa

County, the Maricopa County Board of Supervisors, the State, or the President of the U.S. has declared an emergency ("State of Emergency"). In the event of a local emergency or State of Emergency, Gilbert may require Contractor to provide services or supplies as rapidly as possible and to such locations as directed by Gilbert when necessary to protect the public health and welfare and/or property. Contractor shall not be required to respond to the extent response is not feasible due to Acts of God or other factors beyond its control.

3.2.2 Emergency Contact. Contractor shall provide the designated Gilbert Emergency Management Coordinator at (480) 503-6333 and the designated Gilbert representative with a contact point (name, cell phone number, e-mail and facsimile number) who can be reached on a 24 hour/7 days a week basis so that effective response can be initiated. Contractor's contact person(s) must be able to communicate with Gilbert within one (1) hour from the time the contact person is telephoned by Gilbert.

#### 4. INSURANCE REPRESENTATIONS AND REQUIREMENTS

4.1 General. Contractor agrees to comply with all Gilbert ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to Gilbert. Failure to maintain insurance as specified may result in termination of this Agreement at Gilbert's option.

4.2 No Representation of Coverage Adequacy. By requiring insurance herein, Gilbert does not represent that coverage and limits will be adequate to protect Contractor. Gilbert reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

4.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

4.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by Gilbert, unless specified otherwise in this Agreement.

4.5           Primary Insurance. Contractor's insurance shall be primary insurance as respects performance of subject contract and in the protection of Gilbert as an Additional Insured.

4.6           Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.

4.7           Waiver. All policies, including Workers' Compensation Insurance, shall contain a waiver of rights of recovery (subrogation) against Gilbert, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

4.8           Policy Deductibles and or Self Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self insured retention amounts. Such deductibles or self insured retention shall not be applicable with respect to the policy limits provided to Gilbert. Contractor shall be solely responsible for any such deductible or self insured retention amount. Gilbert, at its option, may require Contractor to secure payment of such deductible or self insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

4.9           Use of Subcontractors. If any Services under this Agreement are subcontracted in any way, Contractor shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting Gilbert and Contractor. Contractor shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.10          Evidence of Insurance. Prior to commencing any Services under this Agreement, Contractor shall furnish Gilbert with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Contractor's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance and reliance by Gilbert on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to Gilbert's Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Contractor's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

4.10.1       Gilbert, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

- a.           Commercial General Liability-Under ISO Form CG 20 10 11 85 or

equivalent.

b. Auto Liability-Under ISO Form CA 20 48 or equivalent.

c. Excess Liability-Follow Form to underlying insurance.

4.10. Contractor's insurance shall be primary insurance as respects performance of this Agreement.

4.10.3 All policies, including Workers' Compensation, waive rights of recovery (subrogation) against Gilbert, its agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by Contractor under this Agreement.

4.10.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

4.11 Required Coverage:

4.11.1 Commercial General Liability: Contractor shall maintain "occurrence" from Commercial Liability Insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Gilbert, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you". If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.11.2 Professional Liability: N/A

4.11.3 Vehicle Liability: Contractor shall maintain Business Automobile Liability Insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc., coverage code "1" any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, Gilbert, its agents, representative,

officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

4.11.4 Workers’ Compensation Insurance: Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor’s employees engaged in the performance Services under this Agreement and shall also maintain Employer Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

## 5. INDEMNIFICATION

5.1 To the fullest extent permitted by law, the Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless Gilbert, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, Services caused in whole or in part by the Contractor, its agents, employees or any tier of Contractor’s subcontractors related to the Services in the performance of this Agreement. Contractor’s duty to defend, hold harmless and indemnify Gilbert, its agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting therefrom, caused in whole or in part by Contractor’s acts, errors, mistakes, omissions, Services in the performance of this Agreement including any employee of the Contractor, any tier of Contractor’s subcontractor or any other person for whose acts, errors, mistakes, omissions, Services the Contractor may be legally liable including Gilbert. Such indemnity does not extend to Gilbert’s negligence.

5.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

## 6. TERMINATION OF THIS AGREEMENT

6.1 Termination. Gilbert may, by written notice to the Contractor, terminate this Agreement in whole or in part with seven (7) days notice, either for Gilbert's convenience or because of the failure of the Contractor to fulfill his contract obligations. Upon receipt of such notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to Gilbert copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Agreement, whether completed or in process. This Agreement may be terminated in whole or in part by the Contractor in the event of substantial failure by Gilbert to fulfill its obligations.

6.2 Payment to Contractor Upon Termination. If the Agreement is terminated, Gilbert shall pay the Contractor for the services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

## 7. ASSURANCES

7.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for Services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color or national origin.

7.2 Examination of Records. The Contractor agrees that duly authorized representatives of Gilbert shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Agreement.

7.3 Ownership of Document and Other Data. Original documents and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of Gilbert unless otherwise agreed to by both parties. Gilbert may use such documents for other purposes without further compensation to the Contractor; however, any reuse without written verification or adaptation by Contractor for the specific purpose intended will be at Gilbert's sole risk and without liability or legal exposure to Contractor. Any verification or adaptation of the documents by Contractor for other purposes than contemplated herein will entitle Contractor to further compensation as agreed upon between the parties.

7.4 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, that all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

7.5 Independent Contractor. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an

independent contractor and not Gilbert's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law. The Contractor agrees that it is a separate and independent enterprise from Gilbert, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and Gilbert, and Gilbert will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums. [FOR SOLE PROPRIETORS ONLY: The Contractor shall execute the Sole Proprietor's Waiver of Workers' Compensation Benefits attached hereto and incorporated by reference.]

7.6            Immigration Law Compliance Warranty. As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. If Contractor uses any subcontractors in performance of the Contract, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Gilbert at its option may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Gilbert retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

7.7            Equal Treatment of Workers. Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the work. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration ("OSHA") and the Fair Labor Standards Act ("FLSA"). Contractor shall protect and indemnify Gilbert and its representatives against any claim or liability arising from or based on the violation of such, whether by Contractor or its employees.



7.8 Exclusive Use of Services - Confidentiality. The services agreed to be provided by Contractor within this Agreement are for the exclusive use of Gilbert and Contractor shall not engage in conflict of interest nor appropriate Gilbert work product or information for the benefit of any third parties without Gilbert's consent.

7.09 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

7.10 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

GILBERT:

CONTRACTOR:

Town Manager  
Town of Gilbert  
50 East Civic Center Drive  
Gilbert, Arizona 85296

The address may be changed from time to time by either party by serving notices as provided above.

7.11 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

## 8. SUSPENSION OF WORK

8.1 Order to Suspend. Gilbert may order the Contractor, in writing, to suspend all or any part of the Services for such period of time as he may determine to be appropriate for the convenience of Gilbert.

8.2 Adjustment to Contract Fee. If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of Gilbert in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance was suspended or delayed for any other cause, including the fault or negligence of the Contractor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Agreement.

9. INTERESTS AND BENEFITS

9.1 Interest of Contractor. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

9.2 Interest of Gilbert's Members and Others. No officer, member or employee of Gilbert and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

9.3 Notice Regarding A.R.S. § 38-511. This Contract is subject to cancellation under Section 38-511, Arizona Revised Statutes..

10. ASSIGNABILITY

The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of Gilbert thereto.

IN WITNESS WHEREOF, Gilbert and the Contractor have executed this Agreement as of the date first written.

TOWN OF GILBERT

CONTRACTOR

By: \_\_\_\_\_  
John W. Lewis, Mayor

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
L. Michael Hamblin  
Town Attorney

**EXHIBIT A  
PRICING**

<b>Description:</b>	<b>Est. Qty.</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Total Price</b>
1A. Install UTBWC (Overlay) Compacted 1” Per attached General Conditions on <u><b>Residential Streets</b></u>	65,078	SQ YD		
1B. Install UTBWC (Overlay) compacted 1” per attached General conditions on <u><b>Arterial &amp; Collector Streets</b></u>	64,501	SQ YD		
2. Valve Adjustments / per MAG	24	EACH		
3. Manhole Adjustments / per MAG	69	EACH		
4. Adjust Survey Monuments / per MAG Type A & B	17	EACH		
5. Pre-Lower Man hole	25	EACH		
6. Pre-Lower Valves and Survey type A	18	EACH		
7. Milling / Tapered 1” Cut- Minimum Drum width of 72 inches. With Minimum Pick Spacing of 15mm or less. <u><b>Arterial and Collector Streets</b></u>	19,279	LF		
8. Milling / Tapered 1” Cut- Minimum Drum width of 72 inches. With Minimum Pick Spacing of 15mm or less. <u><b>Residential Streets</b></u>	45,120	LF		
Grand Total \$				

**Note: Unit Prices SHALL INCLUDE traffic control.**

**GILBERT, IN ITS DISCRETION MAY ORDER EXTRA WORK, ALTER OR DELETE ANY PORTION OF THE WORK. THE TOWN IN ANY RENEWAL CONTRACT WILL DESIGNATE THE NEW ROADS AND AREAS FOR THE WORK TO BE PERFORMED. THE ABOVE MEASUREMENTS ARE APPROXIMATE; FINAL PAYMENT WILL BE MADE FROM THE FIELD MEASUREMENTS AFTER COMPLETION OF LOCATION(S)**

<b>NOVACHIP 2014-2015</b>	<b>SQ.YD.</b>
<b>RESIDENTIAL</b>	
Sierra Springs	8,379
Liberty Square (Lowe Estates) excluding alley ways	31,406
Circle G Ranch Unit 5	10,109
K-C Ranch Unit II	11,679
Elgin ST	3,505
TOTAL	65,078
<b>COLLECTORS</b>	
Baseline Rd: Top of RWCD canal through intersection of Claiborne	19,526
Baseline Rd: Power Rd to top of Eastern canal - old asphalt only	16,841
Houston Rd: Lindsay to Gilbert Rd include intersection at Burke St	28,135
TOTAL	64,502

## **EXHIBIT A**

### **SCOPE OF WORK**

#### **3.1     Description:**

The intent of this section is to specify the design, testing methods, and quality control procedures for the application of an **"ultra-thin bonded wearing course."** As part of any streets project, the contractor shall provide all traffic control, compliant with the most recent edition of the (MUTCD) Manual on Uniform Traffic Control Devices.

3.1.1 Specifications. This specification covers the requirements for the placement of an Ultra-Thin Bonded Wearing Course and shall consist of application of a warm Polymer Modified Emulsion Membrane followed immediately with an ultra-thin overlay of hot asphalt concrete. The Polymer Modified Emulsion Membrane shall be spray applied immediately prior to the application of the hot asphalt concrete overlay so as to produce a homogeneous wearing surface that can be opened to traffic immediately upon sufficient cooling. The finished wearing course shall have a minimum thickness of 1/2" for Type A and 5/8" for Type B and 3/4" for Type C. **The Town of Gilbert requires the finished wearing course shall have a minimum compacted thickness of 1" for Type A.**

3.1.2 Additional Specifications. The following agencies specifications and test methods are applicable to the construction of microsurfaces and may be used as appropriate.

AASHTO	American Association of State Highway and Transportation Officials
ASTM	American Society for Testing and Materials
ISSA	International Slurry Seal Association
ADOT	Arizona Department of Transportation

#### **3.2     Supply of Materials:**

The Contractor shall supply all materials necessary for the performance of the work in accordance with the specifications.

The Contractor shall be responsible for the safety and insurance of all materials of which he has taken delivery, until the work is completed and accepted by the Town, and shall take all necessary precautions to avoid loss by fire or theft or damage by water and shall bear the cost of replacing any such material that is lost, split, destroyed or damaged after delivery.

#### **3.3     Materials:**

Materials shall be approved by the Streets representative prior to the start of construction. Certificates of Compliance will accompany each delivery of emulsion.

3.3.1 Course Aggregate. The coarse aggregates selected should be those typically used for high performance surfaces. Coarse aggregate should meet the skid resistance criteria as set forth by the specifying agency or have a history of successful use in surface mixes. Coarse

aggregates, material retained above the #4 sieve, shall be from approved sources and shall meet the requirements listed in Table 1.

Coarse aggregates, such as crushed gravel, limestone, dolomite, sandstone, granite, chert, taprock, ore tailings, slag, or other similar materials, or blends of two or more of the above may be acceptable. When coarse aggregates for these mixes are from more than one source or of more than one type of material, they shall be proportioned and blended to provide a uniform mixture if approved by the Streets representative.

<b>Table 1 - Coarse Aggregate – Properties*</b>		
<b>Tests</b>		<b>Method</b>
Los Angeles abrasion value <sup>1</sup> , % loss		AASHTO T 96-94
Soundness <sup>1</sup> , % loss	Magnesium Sulfate <u>or</u> Sodium Sulfate	AASHTO T 104-94
Flat & Elongated Ratio, % @ 3:1		ASTM D 4791
% Crushed, single face		ASTM D 5821
% Crushed, Two or more Mechanically crushed faces		ASTM D 5821
Micro-Deval, % loss		AASHTO TP58-99
		Limit
		35 max
		18max 12 max
		25 max
		95 min
		85 min
		18 max

\*All testing must be performed by an AMRL inspected laboratory or be an agency certified laboratory.

<sup>1</sup>**Note:** Values shown for these tests are targets for aggregate selection purposes. The results of these tests should not be the sole basis for rejection.

3.3.2 Fine Aggregate. The fine aggregates will be part of the asphalt mastic. The fine aggregate, passing the #4 sieve, shall be from approved sources and shall meet the requirements of Table 2. Crushed gravel shall not be allowed for use as a fine aggregate.

<b>Table 2 - Fine Aggregate – Properties*</b>		
<b>Tests</b>		<b>Method</b>
Sand Equivalent <sup>2</sup>		AASHTO T 176-86
Methylene Blue <sup>1</sup> (on materials passing 200)		AASHTO TP 57-99
Uncompacted Void Content		AASHTO T 304-96
		Limit
		45 min
		10 max
		40 min

\*All testing must be performed by an AMRL inspected laboratory or be an agency certified laboratory.

<sup>2</sup>**Note:** Values shown for these tests are targets for aggregate selection purposes. The results of these tests should not be the sole basis for rejection. If the finished bituminous mixture passes the AASHTO T-283 requirement in the Mix Design section, the sand equivalent and methylene blue requirements may be waived.

3.3.3 Mineral Filler. Mineral filler may be used as an option to aid in meeting the gradation requirements. Hydrated Lime, certain classes of fly ash, bag house fines and Type 1 Portland cement are acceptable as mineral filler. Mineral fillers shall meet the requirements in Table 3.

<b>Table 3 - Mineral Filler Requirement*</b>
Typical acceptable gradation:
100% passing #30 sieve
75-100% passing #200 sieve

\*All testing must be performed by an AMRL inspected laboratory or be an agency certified laboratory.

3.3.4 Asphalt Binder. The asphalt binder shall meet the following requirements:

Bituminous Material shall be SHRP Graded PG 76-22 TR+ conforming to the requirements of MAG Section 335 and 717 of the Standard Specifications, except for the following shown in Table 4.

**TABLE 4 - SHRP Graded PG 76-22 TR+** shall conform to the following:

Binder composition:

10 ± 1 % ground rubber  
90 ± 3 % asphalt cement  
2% (Minimum) Polymer

Properties:

**Original**

Ground tire rubber  
COC Flash Point, F (ASTM D92)  
Softening Point, F (ASTM D36)  
Elastic Recovery @ 10C (ASTM D6084)  
Specific Gravity @ 60F  
Weight per Gallon @ 60F

Specifications:

9% Minimum  
450 Minimum  
140 Minimum  
55% Minimum  
Report  
Report

Properties:

**Original**

Dynamic shear of  
 $G^* / \sin \delta$  @ 76°C @ 10 rad/sec, kPa

Specification:

1.00 kPa Minimum

**RFTO Aging**

Dynamic shear of  
 $G^* / \sin \delta$  @ 76°C @ 10 rad/sec, kPa

2.20 kPa Minimum

**PAV Aging**

Dynamic shear of  
 $G^* \times \sin \delta$  @ 31°C @ 10 rad/sec, kPa

5,000 kPa Maximum

Creep stiffness, S, @ -12C @ 60 sec

300 mPa Maximum

Creep rate, m-value, @ -12°C @ 60 sec

0.300 Minimum



**3.3.5 Polymer Modified Emulsion Membrane.** The emulsion shall be polymer modified and shall be in accordance with Table 5:

Table 5 – Polymer Modified Emulsion Membrane Requirements				
Tests on Emulsion		Method	Min.	Max.
Viscosity, Saybolt Furol @ 77°F, s		AASHTO T59	20	100
Storage Stability Test <sup>3</sup> , 24 h, %		AASHTO T59		1
Sieve Test <sup>4</sup>		AASHTO T59		0.05
Residue by Distillation <sup>5</sup> , %		AASHTO T59	63	
Oil Distillate by Distillation, %		AASHTO T59		2
Demulsibility, %	35 ml, 0.02 N CaCl <sub>2</sub> <u>or</u>	AASHTO T59	20	
	35ml, 0.8% dioctyl sodium sulfosuccinate	AASHTO T59		
Tests on Residue From Distillation				
Penetration		AASHTO T49	60	150
Solubility in Organic Solvent <sup>6</sup> , %		AASHTO T44	97.5	
Elastic Recovery, %		AASHTO T301	60	
<sup>3</sup> <b>Note:</b> After standing undisturbed for 24 hours, the surface shall show no white, milky colored substance, but shall be a smooth homogeneous color throughout.				
<sup>4</sup> <b>Note:</b> The sieve test is waived if successful application of the material has been achieved in the field.				
<sup>5</sup> <b>Note:</b> AASHTO T59 with modifications to include a 400°F ± 10°F maximum temperature to be held for a period of 15 minutes.				
<sup>6</sup> <b>Note:</b> The organic solvent shall be approved by the Street Dept. representative as suitable. The test may be waived by the Streets representative.				

**3.4 Mix Design.** The contractor shall formulate and submit a job mix formula (JMF) that satisfies the design general limits listed in Table 6 - Mixture Requirements. The job mix formula with the tolerances listed in Table 7 may exceed the Design General Limits. Mix design and proportioning will be approved by the Street Dept. representative prior to the start of the project.

<b>Table 6 - Mixture Requirements*</b>			
Composition by weight percentages			
<b>Sieves</b>	<b>#4 - Type A</b>	<b>3/8 in - Type B</b>	<b>1/2 in - Type C</b>
<b>ASTM</b>	Design General Limits % Passing	Design General Limits % Passing	Design General Limits % Passing
3/4 in <sup>7</sup>			100
1/2 in		100	85 - 100
3/8 in	100	85 - 100	60 - 80
#4	40 - 55	25 - 38	25 - 38
#8	22 - 32	22 - 32	22 - 32
#16	15 - 25	15 - 23	15 - 23
#30	10 - 18	10 - 18	10 - 18
#50	8 - 13	8 - 13	8 - 13
#100	6 - 10	6 - 10	6 - 10
#200	4 - 7	4 - 7	4 - 7
Asphalt Content, %	5.0 - 5.8	4.8 - 5.6	4.6 - 5.6
All testing must be performed by an AMRL inspected laboratory or be an agency certified laboratory. <sup>7</sup> <b>Note:</b> A target of 100% passing the 5/8" sieve is recommended. Mixtures containing 5/8" aggregate size will require greater paving thickness.			

The limits of the target application rate of the asphalt emulsion shall be  $0.20 \pm 0.07$  gal./sq. yd. The mix design shall determine the target application rate.

Drain down from the loose mixture shall not exceed 0.10% when tested in accordance with AASHTO T305.

The tensile strength shall meet or exceed 80% when tested in accordance with AASHTO T-283. Specimens for AASHTO T-283 shall be 4 in diameter and compacted in accordance with AASHTO TP-4 to 100 gyrations. The mixing and compaction temperatures shall be those recommended by the PG binder supplier.

The mixture shall not contain reclaimed materials.

### 3.5 Construction:

3.5.1 Weather. The Ultra-Thin Bonded Wearing Course shall not be placed on a wet pavement. The pavement surface temperature and the ambient air temperature shall be not less than 50°F at the time of placement.

3.5.2 Equipment. The paver shall be self-priming, designed and built for applying the Ultra-Thin Bonded Wearing Course and be approved by the Street Dept. representative. The paver shall have a receiving hopper, dual feed augers, asphalt emulsion storage tank, a system for measuring the Polymer Modified Asphalt Emulsion Membrane volume applied, spray bar and a heated, variable width, combination vibratory-tamping bar screed. The paver shall be capable of spraying the Polymer Modified Asphalt Emulsion Membrane, applying the hot mix asphalt overlay and leveling the surface of the mat in one pass. The paver shall be capable of placing the hot mix asphalt within three (3) feet after the application of the Polymer Modified Asphalt Emulsion Membrane. The paver shall be capable of paving at a controlled speed from 30 - 90 ft./minute. No wheel or other part of the paving machine shall come in contact with the Polymer Modified Emulsion Membrane before the hot mix asphalt concrete wearing course is applied. The screed shall have the ability to crown the pavement at the center and have vertically adjusted extensions to accommodate the desired pavement profile.

3.5.3 Surface Preparation. Immediately prior to applying the bituminous material, the surface shall be cleaned by sweeping, flushing, or other means necessary to remove all loose particles of paving, all dirt, all raised pavement markers and all other extraneous material. This also includes the removal of grass or weeds growing in joints between the street and the concrete gutter. The surfaces shall be cleaned with a self-propelled pick-up broom. When necessary, cleaning shall be supplemented by hand brooms. Pavements impregnated with grease, oil, or fuel shall be thoroughly cleaned.

The bituminous material shall not be applied until an inspection of the surface has been made by the Street Department representative and he has determined that it is suitable.

### 3.6 Notification

3.6.1 Signs. The Contractor will instruct their barricade company to install pre-work warning / information signs at least 7 days prior to the beginning of the project. These signs will be a minimum of 4' X 6' and include project dates, type of work, and use alternate routes.

3.6.2 Notice. The Contractor shall notify the property owners, tenants, post office, mass transit authorities, and any other parties which may be affected, in writing and distribute the notice at least forty-eight (48) hours prior to, and no earlier than seventy-two (72) hours prior to doing any work on or in front of any driveway or for any street restrictions that will affect access to their property. The Contractor shall provide copies to the Town of Gilbert Inspector for notification of Town of Gilbert departments, such as Sanitation, Police and Fire Departments. The notification shall be for the purpose of allowing the referenced parties to remove any vehicles, reschedule routes, etc., as required, prior to construction and should specify the length of time the driveway and/or street will be out of service. The notification shall include that parking will not be permitted during the affected times. Alternate access shall be provided as directed by the Town of Gilbert Inspector at no additional cost to the Town.

3.6.3 Re-notification. If there are any delays in the construction, property owners and other affected entities shall be notified of the delays and then re-notified of the new schedule. Re-notification shall also be done in writing and at least forty-eight (48) hours prior to, and no

earlier than seventy-two (72) hours prior to doing any construction work in the notification area. All costs incurred for notification shall be provided at no additional cost to the Town.

3.6.4 Complaints. The Contractor shall respond to all customer/citizen calls or complaints resulting directly or indirectly from this project within two (2) hours of receipt, and shall resolve any issue within forty-eight (48) hours. This shall be done at no additional cost to the Town.

3.6.5 Tracking. The Contractor shall resolve all complaints regarding sealant tracking on driveways and vehicles and shall be responsible for cleaning all driveways and vehicles to the satisfaction of the resident and the Town Inspector. This will be done at no additional cost to the Town of Gilbert.

3.7 Protection of Existing Structures. The Contractor shall take all necessary precautions to prevent wearing course or other materials used on the work from entering or adhering to gratings, hydrants or valve boxes, manhole covers, bridge or culvert decks, and other fixtures. Immediately after surfacing the contractor shall clean off, protect and leave any such material, including grating and manholes, in a satisfactory condition. Any damages that may occur to the existing structures, including but not limited to, the above will be repaired or replaced at contractor's expense, at no additional cost to the Town of Gilbert.

3.8 Joints. No excessive buildup or unsightly appearance shall be permitted on longitudinal or transverse joints. A maximum of 4.0" overlap will be permitted on longitudinal joints. The contractor shall provide suitable width spreading equipment to produce a minimum number of longitudinal joints throughout the work. Half passes and odd width passes will be used only in minimum amounts. If half passes are used, they cannot be the last pass of any paved area. Care shall be taken to ensure straight lines along curb and shoulders. No runoff on these areas will be permitted.

3.9 Hand Work. Approved hand lutes shall be used to spread the mixture in areas inaccessible to the spreader box and other areas where hand spreading may be required.

3.10 Traffic Control. Vehicular access to residences and businesses will not be permitted across the wearing course until dry. It will be the Contractor's responsibility to control traffic and not allow traffic on or across wearing course until it is dry. Contractor is responsible for any damage that occurs due to failure by Contractor to control traffic.

Traffic control shall be provided by the Contractor in accordance with the Manual on Uniform Traffic Control Devices, as directed by the Streets representative. Permit applications and traffic control plans shall be submitted to Community Development for approval (480) 503-6700. **Construction shall not commence without an approved Traffic Control Plan.**

During construction it may be necessary to alter traffic control. Alterations shall be in accordance with the aforementioned specifications and approved by Traffic Engineering Division. Contact person is Sergio Figueroa (480-503-6170) or Tad Fagerholm (480-503-6940). If cones are to be used for traffic delineation, they shall be twenty-eight inch (28") cones with heavy bases.

The Contractor shall be responsible for centerline barricades until centerline stripes are placed by Town of Gilbert Contracted Striping Crew. Contact person for this will be Deme Fernandez (480-503-6419).

The Contractor will place advanced warning signs at major intersections on streets to be sealed for both directions of travel. Signs will be placed at least seven (7) days prior to sealing of the signed sections.

3.11 Uniformed Police Officers. During the course of construction, it will be required to have at least two (2) uniformed, off-duty Town of Gilbert Law Enforcement Officers present to facilitate traffic control as needed. Uniformed police officers will be paid for by the Town. Scheduling will be done by Contractor and daily time sheets turned over to Street Dept. representative. The payment for police officers will be straight reimbursement; contractor is not permitted to add mark up for off-duty officers. One **must call (48) hours in advance** and talk to **Sherri Summers at 480-262-0745**. You can also request officers on the Town web site. Cancellations of scheduled jobs with less than (24) hours scheduled noticed are subject to a three (3) hour minimum charge. The Town of Gilbert will not pay reimbursements on any foreseen scheduling problems that could have been avoided by contractor; unforeseen problems will be considered.

3.12 Equipment Replacement. Any equipment or piece of equipment that fails to produce the desired surface shall be repaired and/or replaced by the contractor at no cost to the buyer. The Street Dept. representative shall determine if the equipment and/or finished product are in compliance.

3.13 Protection of Covers. All utility appurtenances and survey monuments, i.e. manholes, valves, etc. shall be covered prior to applying wearing course. A squeegee method will not be permitted. The contractor shall submit the method to be used to the Street Dept. representative for approval prior to work commencement. All utility appurtenances and survey monuments shall be marked outside the wearing course portion of the pavement with the offset and location prior to paving.

3.14 Daily Schedule. The Contractor shall provide three (3) copies of its schedule every Thursday for the following week's work. The schedule shall include, but not be limited to the following: A map indicating the streets to be resurfaced each day including limits, the sequence of streets for each day's work, and which side of the street to be resurfaced for each day's work.

3.15 Payment. Payment will be made for satisfactory performance of the work on a monthly basis within thirty (30) days after receipt of an itemized invoice from the Contractor, in the amounts specified in the bid, plus any amounts authorized by change order. Invoices shall not be submitted prior to completion of the work for that month. Invoices shall be submitted to the Town of Gilbert, Public Works Department. The wearing course shall be paid by the square yard. The price per square yard to be paid to Contractor and as specified in the Bid Documents shall include full compensation for furnishing, mixing, and applying all materials; and for all labor, equipment, tools, design tests and incidentals necessary to complete the job as specified herein.

3.16 Changes in the work. The Town may order extra work, alter or delete any portion of the work, as deemed necessary or desirable by the Town, without invalidating the contract and without notification of the sureties. All the work shall be executed under the conditions of the original contract and prices bid, except that any claim for extension of time shall be adjusted at the time of ordering such change or extra work. Current locations listed in this proposal are anticipated work for **fiscal year 2014-2015** may be subject to change.

3.17 Special Provisions:

3.17.1 Standards. Contractor is advised that the Town of Gilbert will be using the most current version of M.A.G. and/or Town of Gilbert Standards and Specifications for inspections and quality assurance of any work being done on this project. It will be the responsibility of the Contractor to ensure that workmanship; materials, equipment, and site preparation meet or exceed these requirements. A Town of Gilbert representative will inspect all phases of work and any unsatisfactory work or preparation will be redone at no additional cost to the Town.

3.17.2 Schedule. The Contractor, if selected, must submit a proposed work schedule for Town of Gilbert approval, prior to beginning any work on this project.

3.17.3 Invoices. All work by the Contractor will be inspected and approved by Town of Gilbert inspector prior to processing any pay request. Payment shall be based on unit price bid and the total quantity of each bid item satisfactorily completed and measured jointly by the Town of Gilbert inspector and the Contractor. Any questions relating to measurements will be resolved prior to invoice submittal.

3.17.4 Site Clean-up. Work site cleaning will be required daily to remove any debris caused by the asphalt milling / overlay operation or related activities. Any area of asphalt milling / overlay started must be completed in the same week. No area of milled surface will be allowed to remain exposed during a weekend period. All cleanup will be included within the overlay unit price bid items. No additional compensation will be allowed for the satisfactory completion of this item.

3.18 Barricading / Traffic Control. The Contractor shall be responsible for all barricading. No work will be allowed without an approved barricade plan in place. Contractor will be responsible for ordering and coordination of barricading. All traffic control and set ups will be per the Manual on Uniform Traffic Control Devices, as directed by the Streets representative. Barricade lane closures for arterial streets shall not be in place earlier than 8:30 a.m. or beyond 3:30 p.m. without Streets approval. Scheduling of asphalt placement must be coordinated to ensure that material has cooled enough to avoid tracking or damage. The Contractor, at no additional cost to the Town, will remove and repair any areas with marking of surface or damage to the newly placed asphalt caused by early release of traffic onto new surface. The Contractor shall be responsible to insure all non-essential traffic control devices are removed from the traffic lanes prior to leaving the job site. For all activities on arterial streets the Contractor shall supply a type B arrow board or equivalent traffic control. The cost for all barricading shall be included as part of the asphalt milling / overlay bid price. No separate or additional compensation over the bid unit prices will be allowed for barricading.

3.19 Stop Work: The Town of Gilbert reserves the right to stop work on this contract at any time if in their opinion,

- A. Weather conditions become adverse for doing requested work.
- B. Work quality is not acceptable.
- C. Other conflicts in Contractor equipment or personnel cause delays in getting work completed.
- D. Work schedule / location conflicts with other Town of Gilbert activities.

3.20 Milling Operation: The limits for all areas to be milled will be determined in the field by the Town of Gilbert representative and the Contractor. Areas that require a tapered mill shall be milled to a maximum depth of one (1) inch and a minimum depth of 3/4 inch below the lip of gutter and along any transition points. Taper will vary in width, with the minimum cut being 72 inches. All milling shall be accomplished using a self-propelled pavement profiling machine with a minimum drum width of seventy two (72) inches. All hauling, loading, disposal of millings, clean up and any other misc. requirements to complete this task will be incidental to work and shall be included in the unit price listed in the bid schedule for milling. When milling tapered 1" cut the minimum pick spacing shall be 15mm or less.

3.21 Rolling: Rolling of the wearing course shall consist of two (2) passes with a steel double drum asphalt roller with a minimum weight of 5 tons. Rolling shall immediately follow the placement of the Ultra-Thin Bonded Wearing Course. Adequate rollers shall be supplied so that the initial knock down is accomplished promptly following the placement of the material. A release agent (added to the water) may be required to prevent adhesion of the fresh mix to the roller drum. Excessive rolling of the mat, to the extent of aggregate breakage, shall not be allowed.

3.22 Valves and Manhole Adjustments. During the course of this project, the Contractor will be required to adjust water valves, manholes, and survey markers. These items will be adjusted per M.A.G. Standards and Details. Take in consideration some concrete collars are larger in diameter than what is called for in Mag specifications. The Town requires that all existing concrete be removed prior to placement of new concrete. There will be no additional costs paid by the Town for these oversized concrete collars. Payment for these items will be based on the actual number completed and per the unit price listed in the bid schedule. The Contractor is responsible for verifying locations of all existing utilities and avoiding damage to the same. Any damage caused to these facilities during the lowering and/or raising or during the milling and paving operation, will be the responsibility of the Contractor and will require repair of the damaged facility at no additional cost to the Town of Gilbert.





**EXHIBIT C**  
**SCHEDULE OF SERVICES**

**Work to be conducted in mid- to late-spring.**

**EXHIBIT D**  
**PAYMENT SCHEDULE**

A. Compensation

1. The consideration of payment to Contractor, as provided herein shall be in full compensation for all of Contractor's work incurred in the performance hereof, including offices, travel, per diem or any other direct or indirect expenses incident to providing the services.

**Description**

**Amount**

B. Method of Payment

Invoices shall be on a form and in the format provided by Gilbert and are to be submitted to Gilbert's authorized representative.

**EXHIBIT E  
CHANGE ORDER**

CHANGE ORDER NO. \_\_\_\_\_

Distribution:	GILBERT	[ ]
	CONTRACTOR	[ ]
	OTHER	[ ]

PROJECT: \_\_\_\_\_

DATE:

OWNER: Town of Gilbert

CONTRACTOR:

AGREEMENT DATED:

CHANGES: The Agreement is changed as follows:

Not valid until signed by both Gilbert and Contractor.  
Signature of Contractor indicates acceptance.

The original compensation was \_\_\_\_\_

Net change by previously authorized Change Orders \_\_\_\_\_

The compensation prior to this Change Order was \_\_\_\_\_

The compensation will be increased by this Change Order in the amount of  
\_\_\_\_\_

The new compensation under the Agreement including this Change Order will be  
\_\_\_\_\_

The Contract Time will increase by \_\_\_\_\_

ACCEPTANCE STATUS:

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Town of Gilbert

By \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**[CONTRACT BOND]**

STATUTORY PERFORMANCE BOND PURSUANT TO  
TITLE 34, CHAPTER 2, ARTICLE 2,  
OF THE ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the CONTRACT amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_ (hereinafter  
“Principal”), and \_\_\_\_\_, a  
corporation organized and existing under the laws of the State of \_\_\_\_\_, duly  
licensed in and holding a certificate of authority to transact surety business in the State of  
Arizona issued by the Director of the department of Insurance pursuant to Title 20, Chapter 2,  
Article 1, (hereinafter “Surety”), as Surety are held and firmly bound unto Gilbert, County of  
Maricopa, State of Arizona in the amount of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_), for the payment of which, the Principal and Surety bind themselves, and  
their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by  
these presents.

WHEREAS, the Principal has entered into a certain written CONTRACT with  
Gilbert, entitled \_\_\_\_\_.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH,  
that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms,  
conditions and agreements of the CONTRACT during the original term of the CONTRACT and  
any extension of the CONTRACT with or without notice to the Surety, and during the life of the  
guaranty required under the CONTRACT, and also performs and fulfills all of the undertakings,  
covenants, terms, conditions and agreements of all duly authorized modifications of the  
CONTRACT that may hereinafter be made, notice of which modifications to the Surety being  
hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this Bond is executed pursuant to the provisions  
of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this Bond shall  
be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona  
Revised Statutes, to the extent as if it were copied at length in this Agreement.

The prevailing party in a suit on this Bond shall recover as part of the judgment  
reasonable attorney fees that may be fixed by a judge of the court.

This Bond shall not be executed by an individual surety or sureties, even if the  
requirements of A.R.S. Section 7-101 are satisfied.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
PRINCIPAL SEAL

By \_\_\_\_\_

\_\_\_\_\_  
SURETY SEAL

By \_\_\_\_\_

Address of Surety:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
AGENT OF RECORD

\_\_\_\_\_  
AGENT ADDRESS

\* attach Power of Attorney

**[LABOR AND MATERIALS BOND]**  
**STATUTORY PAYMENT BOND PURSUANT TO**  
**TITLE 34, CHAPTER 2, ARTICLE 2,**  
**OF THE ARIZONA REVISED STATUTES**  
(Penalty of this bond must be 100% of the CONTRACT amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_ (hereinafter  
“Principal”), as Principal and \_\_\_\_\_, a corporation  
organized and existing under the laws of the State of \_\_\_\_\_, duly licensed in and  
holding a certificate of authority to transact surety business in the State of Arizona issued by the  
Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, (hereinafter  
“Surety”), as Surety are held and firmly bound unto Gilbert, County of Maricopa, State of  
Arizona in the amount of \_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_), for the payment of which the Principal and Surety bind themselves, and  
their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by  
these presents.

WHEREAS, the Principal has entered into a certain written CONTRACT with  
Gilbert, entitled \_\_\_\_\_.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH,  
that if the Principal promptly pays all monies due to all persons supplying labor or MATERIALS  
to the Principal or the Principal’s SUBCONTRACTORS in the prosecution of the WORK  
provided for in the CONTRACT, this obligation is void. Otherwise it remains in full force and  
effect.

PROVIDED, HOWEVER, that this Bond is executed pursuant to the provisions  
of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this Bond shall  
be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter  
2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this  
Agreement.

The prevailing party in a suit on this Bond shall recover as part of the judgment  
reasonable attorney fees that may be fixed by a judge of the court.

This Bond shall not be executed by an individual surety or sureties, even if the  
requirements of A.R.S. Section 7-101 are satisfied.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
PRINCIPAL SEAL

By \_\_\_\_\_

\_\_\_\_\_  
SURETY SEAL

By \_\_\_\_\_

Address of Surety:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
AGENT OF RECORD

\_\_\_\_\_  
AGENT ADDRESS

\* Attach Power of Attorney